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BY ECF

The Honorable George B. Daniels
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

**Re: *U.S. v. Marcus Ayala*
20 Cr.00057-22 (GBD)**

Dear Judge Daniels:

I represent Marcus Ayala in the above-referenced matter. A sentencing hearing was held on June 1, 2022, with a continuation date in order for counsel to receive documents related to Mr. Ayala's state court case. The sentencing is currently scheduled for September 14, 2022. The purpose of this letter is to update the Court regarding the defendant's objections to the PSR. Counsel has obtained the relevant state court documents and has provided copies to the Government. After a review of the documents and the minutes of Mr. Ayala's plea and sentencing in Queens County Supreme Court, counsel and the Government agree on the following objections and revisions to the PSR.

- ¶ 67 - We amend the objection and request that the language in the last sentence be changed to "wherein it was alleged that he shot a victim several times, causing his death."
- ¶ 68 - We respectfully object to the inclusion of this paragraph and request that the entire paragraph be redacted. The information was obtained through an internet search which by its very nature is inherently unreliable. Pursuant to USSG 6A1.3(a), the Court may consider relevant information at sentencing provided that the information has "...sufficient indicia of reliability to support its probable accuracy." Moreover, the tone of the paragraph is not factual and contains statements claiming to know what people believe.
- ¶ 69 - We amend the objection and specifically request that the last sentence be changed to include that Mr. Ayala subsequently pleaded guilty to Count 3 of the indictment, Criminal Possession of a Weapon in the Second Degree, possession of a weapon outside of the defendant's home or place of business.
- Page 26 - We withdraw the objection while informing the Court that we disagree with the

Probation Officer's characterization of what occurred; specifically, the fact that Ayala fled to Virginia following the victim's death. Mr. Ayala was in the Coast Guard and was stationed in Virginia.

Copies of the Queens County Supreme Court indictment, attached as Exhibit A, plea minutes, attached as Exhibit B, sentencing minutes, attached as Exhibit C, and the complaint, attached as Exhibit D are included for the Court's review prior to sentencing.

The Court's time and consideration of this matter are greatly appreciated.

Respectfully submitted,

/ s /

Margaret M. Shalley

cc: All Counsel
(via ECF)